

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In Re:	Case No.:	16-33371-RG
Nicholas Pezza	Chapter:	7
Debtor.	Judge:	Hon. Rosemary Gambardella

NOTICE OF PROPOSED COMPROMISE or SETTLEMENT OF CONTROVERSY

Steven P. Kartzman, Chapter 7 Trustee, in this case proposes a compromise, or to settle a claim and/or action as described below. If you object to the settlement or compromise, you must file a written objection with the Clerk of the United States Bankruptcy Court, and serve it on the person named below not later 7 days before the hearing date.

Address of the Clerk:	Jeanne A. Naughton, Clerk Martin Luther King, Jr. Federal Building 50 Walnut Street Newark, New Jersey 07102
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If an objection is filed, a hearing will be held before the Honorable Rosemary Gambardella on July 9, 2024, at 10:00 a.m. at the United States Bankruptcy Court, 50 Walnut Street, 3rd Floor, Courtroom 3E, Newark, New Jersey 07102 (hearing to be scheduled for at least 28 days from the date of the filing of the notice). If no objection is filed the clerk will enter a *Certification of No Objection* and the settlement may be completed as proposed.

Nature of action: On December 8, 2016 (the “Petition Date”), the Debtor, Nicholas Pezza (“Pezza” or the “Debtor”), filed a voluntary petition for relief under chapter 13 of title 7 of the United States Code (“Bankruptcy Code”) in the United States Bankruptcy Court for the District of New Jersey. Michael J. Cavallaro, Esq. (“Cavallaro”) was counsel to the Debtor on the Petition Date. On April 16, 2017, the Debtor filed a Motion to Convert Case to Chapter 11. [Dkt. No. 29]. On May 10, 2017, the Court entered an Order Converting the Case to Chapter 11 under the Bankruptcy Code. [Dkt. No. 32]. On June 25, 2017, an Application for the Retention of Cavallaro was filed with the Court. [Dkt. No. 47]. The Order employing Cavallaro as attorney for the Debtor was entered on July 21, 2017. [Dkt. No. 51]. On May 31, 2018, Cavallaro submitted an Application for Compensation from February 7, 2017 to May 31, 2018. [Dkt. No. 98]. On July 18, 2018, the Court entered an Order Granting Cavallaro’s attorney’s fees in the amount of \$35,827.50 and expenses of \$548.25 less a Retainer of \$15,000 (the “Fee Order”). [Dkt. No. 111]. Cavallaro never filed a Final Fee Application. On August 31, 2018, the U.S. Trustee filed a Motion to Dismiss Case for Failure to File Monthly Operating Reports, or in the Alternative to Convert Case from Chapter 11 to Chapter 7. [Dkt. No. 117]. The Court entered the Order Converting the Case to Chapter 7 on November 30, 2018. [Dkt. No. 124]. On November 30, 2018, Steven P. Kartzman was appointed Chapter 7 Trustee (the “Trustee”) for the Debtor’s Estate (the “Estate”), with the duties described in 11 U.S.C. §704. Counsel for the Trustee attempted to communicate with Cavallaro numerous times to determine an accurate amount of fees due to him for his services. On March 19, 2024, a FED. R. BANKR. P. 2004 Subpoena was sent to Cavallaro. The subpoena requested that Cavallaro produce “[t]rue and correct copies of all Statements and/or Invoices establishing attorney’s fees owed to you from the Bankruptcy Estate of Nicholas Pezza from June 1, 2018, until your termination on March 14, 2019.” Cavallaro was to respond to the subpoena by April 11, 2024. Cavallaro did not respond to the Subpoena, and a Motion for an Order Compelling Michael J. Cavallaro, Esq. to Comply with a Subpoena in a Case Under the Bankruptcy Code and for Sanctions Pursuant to FED. R. BANKR. P. 2004 and 9016 and FED. R. CIV. P. 45 (the “Motion”) was filed on April 26, 2024. Cavallaro

then complied with the Motion and provided counsel for the Trustee with a Certification stating he was owed \$20,384.50 in fees and \$548.25 in expenses once he deducted his \$15,443 retainer from the Court's Fee Order, and that he would not be seeking any additional fees or expenses. The Trustee reviewed the hours expended by his attorneys in obtaining this information from Cavallaro, and requested a \$4,000.00 reduction in legal fees due to the additional fees expended in obtaining compliance with the prior requests, the subpoena, and drafting and filing the Motion.

Pertinent terms of settlement: Upon the entry of a Certification of No Objection to this Notice of Proposed Settlement, the Fee Order shall be reduced by \$4,000 to \$16,384.50 in fees and \$584.25 in expenses.

Objections must be served on, and requests for additional information directed to:

Name: Steven A. Jayson, Esq., Mellinger Kartzman

Address: 101 Gibraltar Drive, Suite 2F, Morris Plains, New Jersey 07950

Telephone No.: (973) 267-0315